

**\*E-FILED 11-20-2009\***

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

LAILA BATTS,

No. C08-00286 JW (HRL)

Plaintiff,

**ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFF'S  
MOTION TO COMPEL DOCUMENT  
PRODUCTION AND INTERROGATORY  
ANSWERS**

v.

**[Re: Docket No. 44]**

COUNTY OF SANTA CLARA, PETER  
CRANDALL, CHRISTINA ARQUERO, and  
DOES 3-20,

Defendants.

Plaintiff Laila Batts claims that during her 10-day incarceration at the Elmwood Women's Facility ("Elmwood") from January 5-14, 2007, defendants failed to diagnose and provide appropriate medical care for her ectopic pregnancy. She seeks damages for alleged violation of her civil rights (42 U.S.C. § 1983), failure to summon medical care (Cal. Gov. Code § 845.6), and professional negligence. (Amended Complaint, Docket No. 63).

Plaintiff moves for an order compelling the County to produce documents and answer interrogatories.<sup>1</sup> The County opposes the motion. Upon consideration of the moving and responding papers, as well as the arguments of counsel, this court grants the motion in part and denies it in part.

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<sup>1</sup> The issues discussed here are only some of the matters raised in plaintiff's motion. This court has addressed the other issues raised in a separately filed order. (See Docket No. 88). Additionally, although plaintiff references certain Requests for Admission, those requests apparently are not at issue in this motion.

1     A.     Plaintiff's Motion to Compel Document Production

2             The documents at issue have been somewhat of a moving target. Nevertheless, based on  
3     the discussion at the motion hearing, it appears that there still is a dispute as to the following  
4     three categories of documents:

- 5             1.     initial classification documents for plaintiff's incarceration;
- 6             2.     documents identifying individuals who were in the same location in the jail as  
7                 plaintiff; and
- 8             3.     nursing shift-reports from January 2007 and computer data showing the timing  
9                 and actors involved in making medical appointments for plaintiff during her  
               incarceration.

10            The initial classification reports are identified as documents used by jail staff to  
11     determine where a particular inmate is going to be housed within the jail. Plaintiff argues that  
12     there is no reason why these documents should not be produced now that a protective order has  
13     been entered. The County claims that these documents are not merely confidential, they are  
14     privileged. The existence of any privilege (and the scope of any waiver or exception to the  
15     privilege that would permit disclosure to plaintiff) has not been adequately raised or briefed on  
16     the instant motion. Accordingly, no later than **December 4, 2009**, the County shall file papers  
17     supporting its claim that the requested initial classification reports properly may be withheld  
18     from discovery as privileged. On that same day, the County shall also lodge a copy of Batts'  
19     initial classification reports with chambers for an *in camera* review. Plaintiff shall file a  
20     response to the County's papers no later than **December 11, 2009**. Unless otherwise ordered,  
21     the matter will be deemed submitted upon the papers.

22            As for the second category of documents at issue, plaintiff says that she wants the  
23     identification of and last known contact information for the six or seven inmates who occupied  
24     beds next to hers, as well as their last known addresses. Reportedly, Batts was housed in a  
25     dorm setting at Elmwood with perhaps as many as 39 other inmates. The County produced a  
26     list of 30 or so inmates, but plaintiff says that their jail location and contact information were  
27     not included. The County claims that its records do not include information as to a particular  
28     inmate's bed assignment. At the motion hearing, it further indicated that an inmate's last

1 known contact information is not readily available to the County. Accordingly, plaintiff's  
2 motion will be granted as follows: To the extent the County has the information plaintiff seeks,  
3 and to the extent it has not already done so, it shall produce the requested information to Batts  
4 within ten days from the date of this order. If the County does not have the requested  
5 information, then it shall serve plaintiff with declaration(s) from appropriate person(s) with  
6 knowledge attesting that the information plaintiff seeks (a) does not exist or (b) is not within the  
7 County's legal possession, custody or control.

8 Finally, as to the nursing shift reports from January 2007, the County says that it has  
9 produced a 24-hour nursing log. However, plaintiff says that she seeks certain computer data  
10 showing (a) who made the first medical appointment for Batts while she was at Elmwood and  
11 (b) when that first appointment was made. Defendants advise that once an appointment date is  
12 changed, the original appointment data is automatically overwritten by the jail's main computer  
13 system. However, Batts believes that the information might still be available on the computer  
14 of the individual (possibly, an intake nurse) who originally made plaintiff's first medical  
15 appointment. If so, Batts wants that information produced; if not, she requests a certification  
16 that the data is no longer available. The County says that it has produced all documents that  
17 exist. However, it agrees to follow up on plaintiff's request to see if the information might still  
18 be available on an individual computer. Accordingly, plaintiff's motion is granted as follows:  
19 Within ten days from the entry of this order, and to the extent it has not already done so, the  
20 County shall conduct a diligent inquiry and reasonable search to determine if the requested  
21 information still exists on an individual computer. If so, the information shall promptly be  
22 produced to plaintiff. If not, the County shall serve on plaintiff declaration(s) from appropriate  
23 person(s) with knowledge attesting that the data sought is no longer available.

24 B. Plaintiff's Motion to Compel Interrogatory Answers

25 Plaintiff's motion to compel further answers to Interrogatory Nos. 1-5, 7, 13, 15, and 16  
26 is denied. She has failed to persuade this court that the County did not satisfy its reasonably  
27 construed discovery obligations.  
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SO ORDERED.

Dated: November 20, 2009

  
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HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE

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1 5:08-cv-00286-JW Notice has been electronically mailed to:

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